



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

TRANSPORTATION OF PERSONAL AUTOMOBILES/VEHICLES IN INTERSTATE COMMERCE

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TITLE 49

TRANSPORTATION

SUBTITLE IV--INTERSTATE TRANSPORTATION

PART B--MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

In this part:

Board.--The term “Board” means the Surface Transportation Board. (49 USC § 13102(1))

Secretary.--The term “Secretary” means the Secretary of Transportation. (49 USC § 13102(17))

CHAPTER 135--JURISDICTION

SUBCHAPTER I--MOTOR CARRIER TRANSPORTATION

§ 13501. General jurisdiction

The Secretary and the Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier--

- (1) between a place in--
 - (A) a State and a place in another State;
 - (B) a State and another place in the same State through another State;
 - (C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;
 - (D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or
 - (E) the United States and a place in a foreign country to the extent the transportation is in the United States; and
- (2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

SUBCHAPTER III--FREIGHT FORWARDER SERVICE

§ 13531. General jurisdiction

(a) **In general.**--The Secretary and the Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between--

- (1) a place in a State and a place in another State, even if part of the transportation is outside the United States;
- (2) a place in a State and another place in the same State through a place outside the State; or
- (3) a place in the United States and a place outside the United States.

(b) **Exemption of certain air carrier service.**--Neither the Secretary nor the Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to Part A of subtitle VII of this title.

CHAPTER 137--RATES AND THROUGH ROUTES

§ 13707. Payment of rates

(a) **Transfer of possession upon payment.**--Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give

up possession at the destination of the property transported by it only when payment for the transportation or service is made.

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CHAPTER 139--REGISTRATION

§ 13901. Requirement for registration

A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.

§ 13902. Registration of motor carriers

(a) Motor carrier generally.--

(1) **In general.**--Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with--

(A) this part and the applicable regulations of the Secretary and the Board;

(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

* * *

§ 13903. Registration of freight forwarders

(a) **In general.**--The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

* * *

§ 13904. Registration of brokers

(a) **In general.**--The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

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§ 13906. Security of motor carriers, brokers, and freight forwarders

(a) Motor carrier requirements.--

(1) **Liability insurance requirement.**--The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond,

insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes * * *. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

* * *

(3) Transportation insurance.--The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) Broker requirements.--The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

(c) Freight forwarder requirements.--

(1) Liability insurance.--The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. * * *

(2) Freight forwarder insurance.--The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

(3) Effective period.--The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

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CHAPTER 141--OPERATIONS OF CARRIERS

SUBCHAPTER I--GENERAL REQUIREMENTS

§ 14101. Providing transportation and service

(a) On reasonable request.--A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

(b) Contracts with shippers.--

(1) In general.--A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness.

(2) Remedy for breach of contract.--The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

CHAPTER 147--ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

* * *

§ 14704. Rights and remedies of persons injured by carriers or brokers

(a) In general.--

(1) Enforcement of order.--A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

(2) Damages for violations.--A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

(b) Liability and damages for exceeding tariff rate.--A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

* * *

§ 14705. Limitation on actions by and against carriers

(a) In general.--A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

(b) Overcharges.--A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation

subject to jurisdiction under chapter 135 and an election to file a complaint with the Board or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) Damages.--A person must file a complaint with the Board or Secretary, as applicable, to recover damages under section 14704(b) within 2 years after the claim accrues.

(d) Extensions.--The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) Payment.--A person must begin a civil action to enforce an order of the Board or Secretary against a carrier within 1 year after the date of the order.

* * *

(g) Accrual date.--A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

§ 14706. Liability of carriers under receipts and bills of lading

(a) General liability.--

(1) Motor carriers and freight forwarders.--A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service * * * are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property * * *. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. * * *

(2) Freight forwarder.--A freight forwarder is both the receiving and delivering carrier. * * *

* * *

(d) Civil actions.--

(1) Against delivering carrier.--A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

(2) Against carrier responsible for loss.--A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(3) Jurisdiction of courts.--A civil action under this section may be brought in a United States district court or in a State court.

(4) Judicial district defined.--In this section, "judicial district" means--

(A) in the case of a United States district court, a judicial district of the United States; and

(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) Minimum period for filing claims.--

(1) In general.--A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

(2) Special rules.--For the purposes of this subsection--

(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

* * *

§ 14707. Private enforcement of registration requirement

(a) In general.--If a person provides transportation by motor vehicle or service in clear violation of section 13901-13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

(b) Procedure.--A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

(c) Attorney's fees.--In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

GENERAL INFORMATION REGARDING THE INTERSTATE TRANSPORTATION OF PERSONAL AUTOMOBILES/VEHICLES

An entity that arranges for or is engaged in for-hire interstate transportation of personal vehicles must have authority from the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation. Each approved entity is assigned a distinct number that is preceded by the letters “MC-” (common carriers, contract carriers and property brokers) or “FF-” (freight forwarders).

COMMON CARRIERS - These carriers hold out to provide transportation to the general public and provide the over-the-road service. They are responsible for any loss or damage to a vehicle while it is in their possession. Generally, payment of freight charges is made directly to the carrier and for an amount identified at the time of shipment. Common carriers are required to maintain cargo insurance.

CONTRACT CARRIERS - These carriers transport usually for commercial shippers such as a broker or freight forwarder but also transport for the general public. The freight charges are determined by individual agreement or contract with the shipper for the services that will be performed. The contract carrier provides the over-the-road transportation and generally the freight charges are paid directly to the carrier. Contract carriers are **not** required to have cargo insurance.

PROPERTY BROKERS - Property brokers can only arrange for the transportation. They must use the services of common or contract carriers for the over-the-road transportation. A property broker **may not** lawfully take possession of your vehicle since they are only licensed to arrange, not perform, the transportation. Property brokers are **not** required to have cargo insurance but are required to have a performance bond on file with the FMCSA.

FREIGHT FORWARDERS - Freight forwarders are common carriers which consolidate vehicles at origin, arrange for the over-the-road transportation with another common or contract carrier, and provide distribution at destination. As a common carrier, they are responsible for any loss or damage to a vehicle while it is in their possession. They are required to maintain cargo insurance.

SHIPPER - The person who tenders a personal automobile or vehicle for transportation is a shipper. A shipper may be the owner of the vehicle (or the owner’s representative), a property broker or a freight forwarder.

There are two types of services in the transportation of personal vehicles:

Driveaway Service involves the carrier’s arranging for a vehicle to be driven to destination by a driver who may be either an employee of the carrier or another individual who performs the driving under a one-time arrangement with the carrier.

Truckaway Service involves the loading of a vehicle upon a vehicle transporter, probably with other vehicles, and their movement to destination at the same time. Carriers may delay movements in truckaway service until they have accumulated a sufficient number of vehicles to be delivered to the same general location on the same equipment.

An FMCSA licensed property broker is a person or company which is legally entitled to offer to arrange for the transportation of a vehicle across state lines within the United States or to another country, in return for payment of a broker's fee or brokerage charges paid by the shipper of the vehicle or by the carrier. The broker **may not** lawfully take physical possession of a vehicle but is responsible for arranging the long distance movement of the vehicle to be transported by one or more FMCSA authorized carriers. A property broker cannot perform long distance transportation by itself but can arrange for local pickup of the vehicle for delivery to the authorized carrier at origin and can arrange for the local delivery at destination.

A freight forwarder performs a similar function as a property broker but has a greater responsibility (common carrier liability) for the protection of the vehicle by holding out in its own name a through transportation service from point of origin to point of destination.

An FMCSA authorized motor common or contract carrier performs the over-the-road movement of the vehicle to the destination. Payment of freight charges to a common carrier is in accordance with the bill of lading contract between the carrier and the shipper of the vehicle. Payment of freight charges to a contract carrier is based on the individual negotiated agreement or "contract" between the contract carrier and the individual shipper or the commercial shipper such as a broker or freight forwarder. The contract carrier can collect charges on behalf of the broker or freight forwarder. When an owner of an automobile/vehicle contracts with a property broker or freight forwarder, the owner is not a party to the contract and must rely upon the broker or freight forwarder for a description of the services and charges. Whether a common or contract carrier is performing the movement of the vehicle, the services and charges should be as promised in the bill of lading or contract and the carrier cannot demand higher payment than the price set out in either of those agreements.

SERVICE LIST--KNOW WHAT SERVICES TO EXPECT

- What type of entity is providing the transportation services--common carrier, contract carrier, property broker, freight forwarder?
- Is the entity(ies) licensed by the FMCSA (MC or FF number)?
- What is the name and address and telephone number at which each entity involved in the transportation may be contacted?
- Who will take custody of the vehicle for final delivery at destination?

- If dealing directly with a motor carrier, will it perform the over-the-road movement of the vehicle to destination on its own equipment and under its own authority, or will it use the services, equipment and authority of other truckers to complete the movement to destination?
- Does the entity(ies) have appropriate insurance on file with FMCSA?

Common carriers must have evidence of cargo insurance coverage of at least \$5,000 to compensate shippers for any loss or damage to a vehicle in the course of its movement in interstate commerce. While contract carriers and brokers are not specifically required, under FMCSA regulations, to maintain such cargo insurance, many of them do possess such coverage. Shippers should check in advance of the transportation to determine whether such insurance is in effect with respect to the shipper's vehicle and how to file a claim for compensation in the event of loss or damage.

A property broker is required by the FMCSA to have in effect a surety bond or trust fund agreement in the amount of \$10,000, as a means to ensure the broker's financial responsibility to the public.

Consumers may call the FMCSA at 202-358-7000 to determine if a common carrier has cargo insurance and/or a broker has a surety bond/trust fund agreement.

TRANSPORTATION CHECKLIST

At the time a vehicle is tendered for transportation or when it is picked up by the broker, freight forwarder or carrier, a checklist should be covered which includes the following:

- Has the broker, freight forwarder or carrier provided a written receipt for the vehicle and a bill of lading or contract of carriage in writing (the shipping document) containing all the terms of agreement for the transportation?
- Has the shipping document been properly signed by the broker, freight forwarder or carrier, or its representative?
- Has the broker, freight forwarder or carrier furnished a complete copy of the signed bill of lading or contract of carriage prior to the vehicle being loaded?
- Does the shipping document prepared by a broker include a clear statement of the exact service which the broker is to provide?

- If the shipping document is prepared by a broker or freight forwarder, does the document state the full name, address, telephone number, and FMCSA authority numbers of all motor carriers to the extent known to the broker at that time which will perform or participate in the transportation?
- If the broker or freight forwarder does not know, at the time of preparation of the bill of lading or contract of carriage, which carrier or carriers will be providing the transportation service, does the broker or freight forwarder agree in the shipping document to transmit in writing, within a specified time of selection of a carrier or carriers, a statement of each carrier's name, address, telephone number, and FMCSA "MC" number and commit not to give the vehicle to that carrier or carriers until approved by the shipper?
- Does the shipping document specify the agreed-upon dates or periods of time within which the vehicle is to be picked up, within which the vehicle is to be delivered at a named destination, or within which the entire transportation is to be accomplished?
- Has the broker, freight forwarder or carrier advised, prior to or at the time of pickup, whether the vehicle will be placed in storage prior to commencement of transportation, or at any time prior to delivery at destination, and whether the shipper will be permitted to cancel the contract of transportation and demand immediate redelivery if such storage is not acceptable?
- Does the shipping document contain a statement specifying the actual condition of the vehicle when delivered to the broker, freight forwarder or carrier; is it correct; has a copy of the inspection report been provided?
- Has the broker, freight forwarder or carrier who prepared the shipping document inserted thereon the odometer mileage reading of the vehicle as the time the vehicle was tendered for transportation?
- Are there provisions in the shipping document which state that the vehicle owner's insurance rather than that of the broker, freight forwarder or carrier will be held primarily liable in the event of loss? Is this agreed to? Are there other options?

A carrier is responsible for any loss or damage to a vehicle it is transporting. Although the carrier may assert that it will only be responsible for that which a shipper's insurance does not cover, a shipper is under no obligation to agree to this.

- Have all personal items been removed from the vehicle prior to pick up for transportation?

Most brokers, freight forwarders and carriers give a disclaimer on their bill of lading or freight bill for personal effects left in the vehicle. Although they are technically still responsible for such items, unless there is some written receipt and inventory for the personal effects by the carrier, there would be little chance for recovery in the event of loss or damage.

- Are there any cancellation penalties in the contract?
- **HAVE ALL THE PROVISIONS OF THE BILL OF LADING OR CONTRACT BEEN READ AND UNDERSTOOD?**

RATES AND CHARGES CHECKLIST

- What are the total amount of charges, fees and expenses required to be paid at the time of delivery at destination?
- Have these charges and fees been itemized in a freight bill?
- Is the broker, freight forwarder or carrier requiring that it collect all or a substantial portion of its transportation charges in the form of a deposit, *prior to* or *at the time* the vehicle is taken into the broker, freight forwarder or carrier's custody and possession?
- Is the time of pickup known?
- What form of payment must be made to obtain delivery at destination, i.e., cash, credit card, money order or bank check?

DELIVERY CHECKLIST

A carrier or broker is **not** obligated by law or FMCSA regulations to make pickup or delivery of vehicles by a particular date or within certain periods of time. Regardless of any other promises, it is only required to complete delivery with "reasonable dispatch," i.e., within a reasonable time of the date or during the period agreed to, at the designated destination. The courts have interpreted the reasonable dispatch requirement to mean the absence of delays caused by negligence or willfulness of purpose on the part of the carrier.

- What are the available options in the event of delay in delivery?
- If the vehicle cannot be delivered on the date or during the period of time agreed upon in the shipping document with reasonable dispatch, will the broker, freight forwarder or carrier agree to notify by telephone, telegram, or in person, at its own expense, of the existence of the delay, and advise of the actual location of the vehicle? When will such notification be made?
- Will the broker, freight forwarder or carrier deduct an amount from the transportation charges or pay a specified late pickup or delivery charge claim in the event of a delay? Is this guaranteed in writing?

- In the event of such delay, will the broker or carrier provide the choice of either (1) arranging for a new delivery date within a specified time of the original date or period of time for delivery, or (2) having the vehicle returned to point of origin, at the broker, freight forwarder or carrier's expense?

LOST OR DAMAGED VEHICLE

A written claim for a vehicle which has been lost, damaged or destroyed in transit while in possession of the broker, freight forwarder or carrier, or their agents must be filed with the appropriate entity. Carriers and freight forwarders are required to follow the procedures for processing claims for loss or damage to a vehicle as set forth in the regulations at Title 49, Code of Federal Regulations, Part 370. Those regulations state the procedures under which to file and document a claim and require a carrier or freight forwarder to acknowledge receipt of the claim within 30 days, initiate an investigation of the claim, and dispose of the claim within 120 days of receiving it. The broker, to the extent that it has undertaken to act on behalf of the carrier in providing pickup or delivery service, or in preparing and collecting freight bills, or in processing loss or damage claims, is also required to follow the same regulations as the carrier.

In the event of damage, a shipper to protect his/her interests should conduct a thorough inspection of the vehicle in the presence of the carrier's agent or driver, both at the time of pickup and at the time of delivery (take pictures) so that the physical condition of the vehicle is conclusively established by recording any existing damages on the bill of lading and delivery receipt. The odometer reading should also be noted.

Although the Federal Motor Carrier Safety Administration attempts to assist complainants, it does not have the statutory jurisdiction to adjudicate complaints to a final resolution. As a result, a shipper may be in a better position to protect his/her interests by pursuing private legal action.

Under Section 14704 of Title 49, U.S. Code, a person is authorized to pursue private legal action to enforce an order of the Secretary or the Surface Transportation Board (of the U.S. Department of Transportation) and to recover damages caused by a carrier or broker operating in violation of federal law. It also makes a carrier liable to a person for rates charged in excess of those contained in a tariff, and it establishes procedures for pursuing these remedies.

Under Section 14707 of Title 49, U.S. Code, a person injured by an unregistered and/or uninsured carrier or broker is authorized to file a civil action to enforce the registration and insurance provisions. That statute also provides for the recovery of attorney's fees and court costs.